

## **REMARKS**

Applicants' counsel notes that the Office Action mailed on May 4, 2006 was made final. In that Office Action, the Examiner applied Liddicoat et al., U.S. Patent No. 6,942,694 and U.S. Publication No. 2002/0087169 under new grounds of rejection. The Examiner alleges that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action." Contrary to this, for example, independent claim 60 was not amended whatsoever, and independent claim 44 was amended only to include the subject matter of dependent claim 45. Therefore, the new grounds of rejection applied to claims 60-70 is clearly inappropriate as no amendment whatsoever was made to claims 60-67. A new grounds of rejection was also applied by the Examiner to independent claim 44 despite the fact that independent claim 44, as amended, is merely the previous dependent claim 45 rewritten in independent form. The Examiner applies the Liddicoat et al. patent to amended independent claim 44, whereas the previous Office Action applied the Solem patent. As new art was again applied by the Examiner without prompting by any amendment, the finality of this Office Action should be withdrawn. A reissuance of the Office Action, in non-final form, is respectfully requested at this time.

If the Examiner believes any matter requires further discussion, the Examiner is respectfully invited to telephone the undersigned attorney so that the matter may be promptly resolved.

Applicants do not believe that any fees are due in connection with this response. However, if such petition is due or any fees are necessary, the Commissioner may consider this to be a request for such and charge any necessary fees to deposit account 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

/Kevin G. Rooney/

Kevin G. Rooney  
Reg. No. 36,330

2700 Carew Tower  
441 Vine Street  
Cincinnati, Ohio 45202  
(513) 241-2324